

Disciplinary and Other NASD Actions

REPORTED FOR FEBRUARY

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of January 2004.

Firms Expelled, Individuals Sanctioned

First Providence Financial Group, LLC (CRD #39469, Melville, New York), Kenneth Michael Klein (CRD #2080654, Registered Principal, Roslyn, New York), and Paul Gabriel Wasserman (CRD #2172075, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from membership with NASD, and Klein and Wasserman were barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Wasserman, engaged in a distribution to the public of approximately 5.5 million shares of a stock, purchased or received from purchasers of convertible preferred shares; and, as a result, the firm received illicit proceeds of approximately \$5.5 million. The findings stated that the firm, acting through Wasserman, while engaging in the distribution of these stocks, bid for, purchased, and induced others to purchase the stock. NASD also found that the firm, acting through Klein and Wasserman, effected transactions in a stock and induced the purchase and sale of the stock by means of a manipulative, deceptive, or other fraudulent device or contrivance. In addition, NASD found that the firm, acting through Klein and Wasserman, sold shares of a stock to the public when no registration statement was filed with the Securities and Exchange Commission (SEC) or NASD's Corporate Financing Department or in effect as to the public sale of these securities. Furthermore, the findings stated that the firm, Klein, and Wasserman failed to respond to NASD requests for information, and Wasserman made material omissions and misrepresentations in connection with the sale of a common stock to retail customers. **(NASD Case #C3A030051)**

Shelman Securities Corporation (CRD #39795, Dallas, Texas) and Mark Christopher Parman (CRD #2686104, Registered Principal, Dallas, Texas) submitted an Offer of Settlement in which the firm was expelled from NASD membership and required to pay \$1.7 million in restitution to public customers, jointly and severally with Parman. Parman was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they offered and sold unregistered securities in the form of limited partnership interests to customers and made misrepresentations and omissions of material facts in connection with the offerings. The findings also stated that the firm, acting through Parman, utilized interstate facilities by using telephone lines and the U.S. Mail in connection with the offer and sale of the limited partnership interests.

The findings further stated that the firm and Parman received excessive underwriting compensation and failed to disclose the underwriting compensation. In addition, NASD found that the firm and Parman failed to file interstate offering documents with NASD. (NASD Case #C06030013)

Stephen Investment Securities, Inc. (CRD #24374, Chesterfield, Missouri) and Mary Elizabeth Oliver (CRD #1972547, Registered Principal, Chesterfield, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from NASD membership and Oliver was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the firm and Oliver consented to the described sanctions and to the entry of findings that the firm, acting through Oliver, permitted her to perform duties as a registered person while her registration status was inactive due to her failure to timely complete the Regulatory Element of NASD's Continuing Education Requirements. The findings also stated that the firm, acting through Oliver, permitted an individual to be associated with the firm while he was subject to a statutory disqualification. (NASD Case #C04030066)

Firms Fined, Individuals Sanctioned

First Allied Securities, Inc. (CRD #32444, San Diego, California) and James Edward Zogby (CRD #2549557, Registered Principal, Pevely, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, jointly and severally with Zogby. Zogby was also suspended from association with any NASD member in any principal or supervisory capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to reasonably supervise a registered representative.

Zogby's suspension will begin February 17, 2004, and will conclude at the close of business March 1, 2004. (NASD Case #C8A030106)

MONY Securities Corporation (CRD #4386, Dallas, Texas), Joseph Francis Presutti, Jr. (CRD #367520, Registered Principal, Paradise Valley, Arizona), and Irving Mestel (CRD #1172195, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$35,837, including disgorgement of \$30,837 in commissions; fined \$5,000, jointly and severally with Presutti; and required to undertake to offer a customer the opportunity to exchange the Class B shares she currently holds for Class A shares at the price at which the Class A shares could have been purchased at the time of the customer's purchase of the Class B shares within 30 business days. Presutti was also suspended from association with any NASD member in any principal capacity for

20 business days. Mestel was fined \$36,867, including disgorgement of \$29,367 in commissions, fined \$7,500, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Mestel recommended that a public customer purchase more than \$1.5 million worth of Class B mutual fund shares in 10 different mutual fund families. NASD found that Mestel's recommendations were unsuitable for the customer in light of the dollar amount being invested. The findings also stated that the firm, acting through Presutti, failed to reasonably supervise Mestel in connection with his unsuitable investment recommendations to a public customer.

Mestel's suspension will begin February 17, 2004, and will conclude at the close of business March 17, 2004. Presutti's suspension will begin February 17, 2004, and will conclude at the close of business March 15, 2004. (NASD Case #C06030042)

Murjen Financial, Inc. (CRD #100340, Westbury, New York), Michael Patrick Murphy (CRD #2596905, Registered Principal, New York, New York), and Thomas James Jennings (CRD #1902638, Registered Principal, Point Lookout, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000, \$9,000 of which was jointly and severally with Murphy, and \$6,000 of which was jointly and severally with Jennings. Murphy was suspended from association with any NASD member in a principal capacity for two months and Jennings was suspended from association with any NASD member in an options principal capacity for two months. The firm, Murphy, and Jennings were also ordered to pay \$209,882.60 in partial restitution to public customers. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Murphy and Jennings, failed to supervise adequately an individual who was making unsuitable recommendations to public customers and excessively trading the customers' accounts. The findings also stated that the firm, acting through Murphy, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with NASD rules against brokers making unsuitable recommendations and engaging in excessive trading.

Murphy's and Jennings' suspensions began January 20, 2004, and will conclude at the close of business March 19, 2004. (NASD Case #CLI030028)

Share King, L.L.C. (CRD #33150, San Francisco, California) and Michael Anthony Fitzgerald (CRD #1757192, Registered Principal, Danville, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000, jointly and severally with Fitzgerald. Fitzgerald was suspended from association with any NASD member in any capacity for 10 business days, suspended from

association with any NASD member as a financial and operations principal for 60 days, and required to requalify as a financial and operations principal by exam prior to acting in that capacity following his suspension in that capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Fitzgerald, utilized the instrumentalities of interstate commerce to engage in securities business while failing to maintain minimum net capital. The findings also stated that the firm, acting through Fitzgerald, failed to accurately prepare and maintain books and records needed to support its net capital computations in that it incorrectly included an asset on its balance sheet, failed to properly reconcile its omnibus account and bank account, and improperly accrued receivables. The findings further stated that the firm, acting through Fitzgerald, failed to have on deposit in its Special Reserve Account for the Exclusive Benefit of Customers the amount required to be deposited.

Fitzgerald's suspensions will begin March 1, 2004; the suspension in any capacity will conclude at the close of business March 12, 2004; and the suspension as a financial and operations principal will conclude at the close of business April 29, 2004. (NASD Case #C01030035)

Tejas Securities Group, Inc. (CRD #36705, Austin, Texas), Arnold Reed Durant (CRD #716150, Registered Principal, Austin, Texas), and John Franklin Garber, Jr. (CRD #3061992, Registered Principal, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$30,000, \$15,000 of which was jointly and severally with Durant, and \$10,000 of which was jointly and severally with Garber. Durant and Garber were also suspended from association with any NASD member in any principal capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm self-cleared customer securities transactions by processing the transactions directly through the firm instead of through its clearing firm. The findings also stated that the firm, acting through Durant and Garber, failed to obtain promptly physical possession or control of all fully paid for customer securities in connection with the transactions; failed to maintain a securities received and forwarded blotter for the transactions; and failed to transmit promptly customer securities to its clearing firm. The findings further stated that the firm failed to maintain a stock record evidencing the transactions. In addition, NASD found that the respondents failed to prepare or to provide customers with monthly or quarterly account statements containing a description of any securities positions, money balances, or account activity. Furthermore, NASD found that the firm, acting through Durant and Garber, violated the terms of its NASD membership agreement by engaging in business not set forth in the membership agreement, and by failing to notify and obtain NASD's approval for a material

change in business operations when it self-cleared transactions and held customer fully paid for securities.

Durant's and Garber's suspension will begin February 17, 2004, and will conclude at the close of business March 1, 2004. (NASD Case #C06030036)

Firms and Individuals Fined

Gelber Securities, LLC (CRD #18367, Chicago, Illinois) and Franklin Allen Gelber (CRD #1613104, Registered Principal, Wilmette, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally. The firm was fined an additional \$1,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Gelber, permitted individuals to trade fixed income securities while they were not properly registered with the firm. The findings also stated that the firm, acting through Gelber, permitted individuals to have access to the handling or processing of securities or monies or original books and records relating thereto of the firm, while they were not fingerprinted and the fingerprints were not forwarded to the Central Registration Depository (CRD). In addition, NASD found that the firm, acting through Gelber, permitted a registered person employed by the firm to perform duties as a General Securities Representative while his registration status with NASD was inactive due to his failure to timely complete the Regulatory Element of NASD's Continuing Education Rule. Furthermore, NASD determined that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable NASD rules with respect to the Regulatory Element of NASD's Continuing Education Rule in that, among other things, the procedures failed to state any measures that would be taken to ensure that registered representatives who are Continuing Education Inactive do not engage in the securities business. (NASD Case #C8A030095)

I-Bankers Securities, Inc. (CRD #41352, Fort Worth, Texas) and Shelley Kay Gluck (CRD #2401474, Registered Principal, North Richland Hills, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally. Without admitting or denying the allegations, the firm and Gluck consented to the described sanctions and to the entry of findings that the firm, acting through Gluck, permitted registered persons of the firm to act in capacities requiring registration when such persons were deemed inactive for failing to complete the Regulatory Element of Continuing Education. The findings also stated that Gluck acted in a capacity requiring registration when her registration was deemed inactive for failure to comply with the Regulatory Element of Continuing Education. NASD also found that the

firm, acting through Gluck, failed to establish and maintain a supervisory system reasonably designed to address the Regulatory Element of Continuing Education, and including, but not limited to, the establishment and maintenance of written procedures reasonably designed to address the need to verify the continuing education status of the firm's registered persons and the steps necessary to ensure that inactive persons would not perform any duties requiring registration. (NASD Case #C06030033)

Lawson Financial Corporation (CRD #15261, Phoenix, Arizona) and Lona Marie Nanna (CRD #1618128, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$17,500, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Nanna, failed to promptly amend the individual's Uniform Application for Securities Registration or Transfer (Form U4) for registered representatives after becoming aware of information that triggered an obligation to update the Form U4. The findings also stated that the firm, acting through Nanna, filed required disclosures late, filed reports that contained inaccurate descriptions of the complaint allegations, and filed reports that identified the wrong registered person. (NASD Case #C3A030052)

Leeb Brokerage Services, Inc. (CRD #46195, New York, New York) and Robert Morton Lehr (CRD #1898673, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was fined an additional \$12,500. Without admitting or denying the allegations, the firm and Lehr consented to the described sanctions and to the entry of findings that the firm reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) as principal transactions when the firm had executed them as agent; reported a transaction to ACT with the incorrect number of shares; failed to report OTC Bulletin Board transactions to ACT within 90 seconds; failed to include the time of execution for some of the transactions; and reported some of the transactions as late. The findings also stated that the firm reported a short sale transaction to ACT without indicating that the transaction was a short sale; failed to mark order tickets as either "long" or "short"; created order tickets that failed to show the terms and condition of the order; created order tickets that were time-stamped only once and did not include the time the order was received or entered; and reported transactions to ACT prior to the time of execution indicated on the order ticket. In addition, NASD found that the firm permitted associated persons to be employed by the firm prior to submitting their fingerprints to NASD. Furthermore, NASD found that the firm, acting through Lehr, permitted associated persons to act in capacities that required NASD registration while their registration

status was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Requirement. (NASD Case #C10030134)

Scot Financial Group Incorporated (CRD #27918, Bernardsville, New Jersey) and William Duncan Watt (CRD #460230, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was fined an additional \$5,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Watt, permitted individuals to perform duties as registered persons while their registrations with NASD were inactive due to their failure to timely complete the Regulatory Element of NASD's Continuing Education Rule. NASD also found that the firm, acting under the direction and control of Watt, was a participating broker in contingency offerings of securities and investor funds raised in the offerings were not transmitted to a separate bank escrow account. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the Regulatory Element of NASD's Continuing Education Rule and SEC Rule 15c2-4. (NASD Case #C9B030087)

Share King, L.L.C. (CRD #33150, San Francisco, California) and Michael Anthony Fitzgerald (CRD #1757192, Registered Principal, Danville, California) submitted an Offer of Settlement in which the firm was censured and fined \$35,000, jointly and severally with Fitzgerald. Without admitting or denying the allegations, the firm and Fitzgerald consented to the described sanctions and to the entry of findings that the firm, acting through Fitzgerald, failed to make and preserve books and records relating to short stock dividends and distributions, short securities differences, suspense accounts, short securities with related credit balances, unclaimed dividends and interest payable, unconfirmed transfer, securities that failed to receive and to deliver, net capital charge for margin calls over five days, reconciliation of inventory positions, registration T extension filings, and accounts subject to a 90-day freeze. The findings also stated that the firm, acting through Fitzgerald, maintained customer securities in an omnibus account in the name of the firm at another brokerage firm. NASD found that the firm, acting through Fitzgerald, failed to instruct the other brokerage firm that customer fully paid for securities and excess margin securities within the omnibus account were to be maintained free of any charge, lien, or claim of any kind in favor of the brokerage firm or any person claiming through the brokerage firm. In addition, NASD found that the firm failed to determine, on a daily basis, the quantity of customer fully paid for and excess margin securities held in the omnibus account at the brokerage firm on a daily basis and to notify the brokerage firm of those determinations. Furthermore, NASD found that

Fitzgerald performed, and the firm, acting through another individual, permitted him to perform duties of a registered person while Fitzgerald was deemed inactive for failure to complete the Regulatory Element of Continuing Education. (NASD Case #C01020022)

Firms Fined

Bear, Stearns & Co., Inc. (CRD #79, Whippany, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning the requirements of supervising its registered representatives, reviewing customer account activity and taking steps to prevent unsuitable and excessive trading, and the steps to be taken when a customer account repeatedly appears on active account exception reports subsequent to the receipt of the customer's signed activity letter within 60 days. The firm was also required to provide proof of payment of \$310,000 to public customers to resolve an arbitration claim brought by the customers against it and its registered representative within 60 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to adequately and properly supervise a general securities representative with respect to the separate accounts of married public customers that appeared on the Customer Statement Exception Report, or otherwise take steps reasonably designed to prevent unsuitable and excessive trading in those accounts. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures, in that its procedures did not require specific steps to take when a customer account repeatedly appears on active account exception reports subsequent to the receipt of the customer's signed activity letter. (NASD Case #C8A030093)

Credit Suisse First Boston Corporation (CRD #816, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt, or cross for transactions in eligible securities. The findings also stated that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. (NASD Case #CMS030293)

E*Trade Securities, LLC (CRD #29106, Rancho Cordova, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$11,000, and required to revise its written supervisory procedures concerning timely Order Audit Trail SystemSM (OATSSM) reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market that were not in the electronic form prescribed by NASD. The reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site. The firm did not correct or replace the reports. The findings also stated that the firm failed to enforce its written supervisory procedures concerning repairing rejected OATS event submissions. In addition, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance concerning timely OATS reporting. (NASD Case #CMS030291)

Falcon Research, Inc. (CRD #13115, Palo Alto, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures to achieve compliance with trade-reporting requirements within 90 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report correctly the capacity in which it acted in transactions; failed to report some of the principal transactions as cross transactions; failed to report to ACT that transactions were short sale transactions; failed to evidence that it made an affirmative determination as to the availability of shares to be borrowed to satisfy customer short sales with respect to short sale transactions. Also, the firm's written supervisory procedures and supervisory system were not reasonably designed to achieve compliance with the transaction reporting requirements of the various trade reporting rules. (NASD Case #C01030036)

Fieldstone Services Corporation (CRD #27851, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file its annual audited reports in a timely manner. (NASD Case #C10030128)

J.P.R. Capital Corp. (CRD #38056, Roslyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it disseminated sales literature to the public concerning a hedge fund that omitted material facts so as to make the sales literature misleading and

contain exaggerated, inaccurate, or misleading statements. The findings also stated that the firm failed to append the ".S" short sale modifier to transactions to identify them as short sale transactions. (NASD Case #CLI030032)

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$17,500, and required to revise its written supervisory procedures concerning the Trade Reporting and Compliance Engine (TRACE) within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities within 75 minutes after execution. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning TRACE. (NASD Case #CMS030288)

NT Securities LLC (CRD #45694, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and required to revise its written supervisory procedures concerning OATS reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report timely OATS Reportable Order Event (ROEs). The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS reporting. (NASD Case #CMS030292)

Peregrine Financials & Securities, Inc. (CRD #43992, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to state in the verified complaint filed against a public customer that it had an agreement with the customer to arbitrate all controversies arising between the parties concerning any transaction. The findings also stated that the verified complaint did not allege that the customer had refused to submit to arbitration, did not request that the court order the customer to arbitrate the firm's claim, and did not request the court to render an interpretation of arbitrability of the firm's claim. Furthermore, NASD found that the firm filed an emergency motion with the Circuit Court requesting the court to direct that the arbitration be held in Cook County, Illinois, instead of Los Angeles, California. NASD determined that the filing of the emergency motion was contrary to the ruling by the Director of Arbitration and contrary to the member's agreement to abide by the Code of Arbitration and was in violation of NASD Code of Arbitration Procedure Rules and NASD Conduct Rules. (NASD Case #C8A030090)

Perrin, Holden and Davenport Capital Corporation (CRD #38785, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures concerning limit order protection; frontrunning CQS orders; SEC Rule 11Ac1-6; best execution (agency and principal orders and regular and rigorous assessment of competing markets); anti-intimidation/coordination; trade reporting (riskless principal and accepting or matching trades); and books and records. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit, for the offsetting "riskless" portion of three "riskless" principal transactions in a Nasdaq National Market® (NNM®) security, either a clearing-only report with a capacity indicator of "riskless principal," or a non-tape, non-clearing report with a capacity indicator of "riskless principal." The findings also stated that the firm incorrectly reported to ACT the second leg of five "riskless" principal transactions in an NNM security, and incorrectly designated the capacity of such transactions as principal. In addition, NASD found that the firm failed to show the terms and conditions on the memorandum of brokerage orders. Furthermore, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning limit order protection; frontrunning CQS orders; SEC Rule 11Ac1-6; best execution (agency and principal orders and regular and rigorous assessment of competing markets); anti-intimidation/coordination; trade reporting (riskless principal and accepting or matching trades); and books and records. (NASD Case #CMS030295)

SG Cowen Securities Corporation (CRD #7616, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$230,000, and required to revise its written supervisory procedures concerning supervisory personnel and registration; order handling and execution; best execution; the Three Quote Rule; trade reporting; SEC Rules 10a-1, 11Ac1-5, and 11Ac1-6; locked and crossed markets; the One Percent Rule; OATS "Chinese Wall" procedures; affirmative determination; bid test; firm quote compliance; books and records; regular and rigorous review; frontrunning; the trading system; the Limit Order Protection Interpretation; and the Limit Order Display Rule. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer for each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each security.

The findings also stated that the firm failed to fully or partially execute within the general time parameter of one-minute customer limit orders in NASDAQ securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. The findings further stated that the firm failed, in transactions for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. NASD also found that the firm failed to execute orders fully and promptly; executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier; executed long sale transactions and incorrectly reported these transactions to ACT with a short sale or short sale exempt modifier; and failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal, riskless principal, or agency capacity.

In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning supervisory personnel and registration; order handling and execution; best execution; the Three Quote Rule; trade reporting; SEC Rules 10a-1, 11Ac1-5, and 11Ac1-6; locked and crossed markets; the One Percent Rule; OATS; "Chinese Wall" procedures; regular and rigorous review; affirmative determination; bid test; firm quote compliance; and books and records. Furthermore, NASD found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning the requirements of frontrunning; best execution; and a new electronic order-processing system. The findings also stated that the firm failed to recognize that it was not properly complying with the Limit Order Protection Interpretation and the Limit Order Display Rule because the trading system's order screen incorrectly depicted held orders as "not held" and gave the firm false assurances that potential limit order violations were not violative. (NASD Case #CMS030301)

Southwest Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report TRACE transactions in TRACE-eligible securities within 75 minutes after execution. The findings also stated that the firm failed to report to TRACE the correct execution time of transactions in TRACE-eligible securities. In addition, NASD found that the firm double-reported to TRACE transactions in TRACE-eligible securities. (NASD Case #CMS030287)

Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$35,000, and required to revise its written supervisory procedures concerning the appropriate application of the bona fide market maker exemption under NASD Conduct Rules 3350 and 3370. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it effected short sale transactions in NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in each of the securities. The findings also stated that the firm effected short sale transactions in securities for the firm's proprietary account and, for each such sale, failed to make and annotate an affirmative determination that the firm could borrow the securities or otherwise provide for delivery of the securities by settlement date. NASD determined that, although the firm had registered as a market maker in each security before effecting the short sales, it was not entitled to the bona fide market maker exemption because the short sale transactions were effected as part of speculative trading strategies on behalf of a hedge fund customer. In addition, NASD found that the firm executed short sale transactions in securities and failed to report each of these transactions to ACT with a short sale modifier. Furthermore, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the appropriate application of the bona fide market maker exemption under NASD Conduct Rules 3350 and 3370. (NASD Case #CMS030282)

Sunstate Equity Trading Inc. (CRD #43571, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report timely OATS ROEs. The findings also stated that the firm, acting through its registered principals, failed to enforce its supervisory system that would detect and prevent violations of the OATS Reporting Rules. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS reporting. (NASD Case #CMS030294)

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as an Electronic Communications Network (ECN), it entered a quote that locked or crossed the market without first sending a Trade-or-Move Directed Order to the market maker or ECN whose quote the firm would lock or cross that was at, or superior to, the receiving market maker's or ECN's quoted price. (NASD Case #CMS030289)

Turner Investment Distributors, Inc. (CRD #40644, Berwyn, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$100,000, and required to file all sales literature and advertisements concerning hedge funds and funds of hedge funds with NASD's Advertising Regulation Department at least 10 days prior to their first use for six months from the date of acceptance of this AWC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it distributed sales literature regarding hedge funds to public customers that had inadequate risk disclosures about the specific risks of investing in hedge funds and made unbalanced presentations about the particular hedge fund that failed to provide investors with a sound basis for evaluating the facts associated with investing in the hedge funds. The findings also stated that the firm launched a Web site that allowed all members of the public to download print-disabled versions of a private placement memoranda in violation of SEC requirements of the registration exemption in Regulation D, Rule 506, and the unregistered offerings violated Section 5 of the Securities Act of 1933. (NASD Case #CAF030068)

U.S. Bancorp Investments, Inc. (CRD #17868, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, acting through registered representatives, made numerous material misrepresentations of fact regarding callable certificates of deposit (CCDs), which induced many investors, who might not otherwise have done so, to invest in these products. The findings also stated that the firm misrepresented the value of the CCDs on monthly customer account statements in that they listed the current market value as the full amount of the principal investment when, in fact, the market value was subject to market forces and could be, and often was, significantly less than the initial investment amount. (NASD Case #C05030062)

Individuals Barred or Suspended

Maurice Wayne Abney (CRD #2733649, Registered Principal, Owensboro, Kentucky) submitted an Offer of Settlement in which he was fined \$8,500, including disgorgement of \$6,000 in commissions, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Abney consented to the described sanctions and to the entry of findings that he recommended and effected securities transactions in the account of a public customer without having reasonable grounds for believing that the recommendation and resultant transactions were suitable for the customer on the basis of the customer's financial situation and needs.

Abney's suspension began January 5, 2004, and concluded at the close of business January 16, 2004. (NASD Case #C05030046)

Jonathan Bruce Abrams (CRD #2052573, Registered Principal, River Edge, New Jersey) was fined \$67,000, suspended from association with any NASD member in any capacity for 90 days, suspended from association with any NASD member as a municipal securities principal for one year, and required to requalify by exam before serving again as a municipal securities principal. The sanctions were based on findings that Abrams failed and neglected to ensure that municipal securities transactions executed by his member firm were executed at prices that were fair and reasonable. The findings also stated that Abrams failed to establish, maintain, and enforce his member firm's written supervisory procedures that would ensure that municipal security sales prices were fair and reasonable in accordance with MSRB Rule G-30.

Abrams' suspension began January 20, 2004; the suspension in all capacities will conclude at the close of business April 19, 2004, and the suspension as a municipal securities principal will conclude at the close of business January 19, 2005. (NASD Case #C9B030043)

Raymond Henry Beliveau (CRD #17256, Registered Representative, Edmonds, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for four months. In light of the financial status of Beliveau, no monetary sanction has been imposed. Without admitting or denying the allegations, Beliveau consented to the described sanction and to the entry of findings that he engaged in excessive trading in the securities accounts of public customers while registered with a member firm. The findings also stated that Beliveau engaged in the unsuitable use of margin in a customer's account.

Beliveau's suspension will begin March 1, 2004, and will conclude at the close of business June 30, 2004. (NASD Case #C8A030105)

Dennis Scott Bonge (CRD #2726663, Registered Representative, Little Rock, Arkansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$36,844.13, including disgorgement of \$26,844.13 in commissions earned, and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Bonge reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bonge consented to the described sanctions and to the entry of findings that he recommended and effected option transactions in the accounts of public customers without having reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customers on the basis of their

financial situations, investment objectives, and needs. The findings also stated that Bonge effected options transactions totaling \$15,696,766.25 in the accounts of public customers without prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm.

Bonge's suspension will begin February 17, 2004, and will conclude at the close of business February 16, 2005. **(NASD Case #C05030063)**

Charles Alfonse Borbone (CRD #1320748, Registered Representative, Essex Falls, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000, including disgorgement of \$25,000 in commissions, and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Borbone reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Borbone consented to the described sanctions and to the entry of findings that he exercised effective control over the account of a customer. The findings stated that Borbone recommended and effected securities transactions in the account without having reasonable grounds for believing that such transactions were suitable for the customer in view of the size, frequency, and nature of the recommended transactions, and in light of the customer's investment objectives, circumstances, and needs.

Borbone's suspension began February 2, 2004, and will conclude August 1, 2004. **(NASD Case #C9B030090)**

Christopher Borgo (CRD #2377439, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement in which he was fined \$22,500, ordered to disgorge commissions of \$29,725 in partial restitution to public customers, and suspended from association with any NASD member in any capacity for six months. The restitution must be paid before Borgo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Borgo consented to the described sanctions and to the entry of findings that he recommended to public customers the purchase of a common stock and, based on his recommendation, customers agreed to invest in the stock. The findings stated that Borgo conducted no independent investigation into the merits of the stock prior to recommending the stock to his customers and was unaware of the materially adverse information concerning the stock that he either intentionally or recklessly failed to disclose to customers in connection with his recommendation that they purchase the stock. NASD also found that Borgo, by use of the means of instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, employed a device, scheme, or artifice to defraud; omitted to state material facts necessary in order to make the

statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business that operated, or could operate, as a fraud or deceit upon persons in connection with the recommendations he made to customers to purchase a stock.

Borgo's suspension will begin February 17, 2004, and will conclude at the close of business August 16, 2004. **(NASD Case #C3A030048)**

Robert Judson Brannon (CRD #810610, Registered Representative, Chandler, Arizona) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Brannon reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brannon consented to the described sanctions and to the entry of findings that he participated in outside business activities without providing prompt written notice to his member firm.

Brannon's suspension began February 2, 2004, and will conclude at the close of business February 1, 2005. **(NASD Case #C3A030022)**

John Clark Byrnes, Jr. (CRD #3147134, Registered Representative, Greensboro, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Byrnes reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Byrnes consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information.

Byrnes' suspension began February 2, 2004, and will conclude at the close of business March 2, 2004. **(NASD Case #C07030088)**

Steven Lewis Camacho (CRD #2309043, Registered Representative, Hanford, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Camacho, no monetary sanction has been imposed. Without admitting or denying the allegations, Camacho consented to the described sanction and to the entry of findings that he participated in outside business activities without providing prompt written notice to his member firm.

Camacho's suspension will begin February 17, 2004, and will conclude at the close of business March 17, 2004. **(NASD Case #C02030072)**

Michael Ralph Catania (CRD #2725908, Registered Principal, Windsor, California) was fined \$20,000 and suspended from association with any NASD member in any principal capacity for two years. The fine is due and payable when or if Catania seeks to return to the securities industry. The sanctions were based on findings that Catania failed to supervise the private securities transactions of a former registered representative and to record the representative's private securities transactions on the books and records of his member firm. The findings also stated that Catania failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with NASD Conduct Rule 3040 regarding private securities transactions.

Catania's suspension began January 5, 2004, and will conclude at the close of business January 4, 2006. **(NASD Case #C07030024)**

Stephen Henry Chriest (CRD#1659802, Registered Representative, Alamo, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chriest consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notification to, or approval from, his member firm. **(NASD Case #C01030032)**

Salvatore Clark (CRD #2580477, Registered Representative, Deer Park, New York) was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Clark entered an unauthorized trade in the account of a public customer.

Clark's suspension began January 5, 2004, and concluded at the close of business January 16, 2004. **(NASD Case #C3A020039)**

Richard Bennett Cohen (CRD #2688040, Registered Representative, Merrick, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that he received \$25,000 from a public customer to purchase shares of a municipal fund but failed to apply the funds as directed and/or intended. Cohen also failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C10030130)**

Armando Carl Corbino (CRD #4671949, Registered Representative, Mount Holly, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Corbino

consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C9A030043)**

John D. Crooks (CRD #3071684, Registered Representative, Norwich, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Crooks consented to the described sanctions and to the entry of findings that he attempted to settle a customer complaint without his member firm's knowledge or approval.

Crooks' suspension will begin February 17, 2004, and will conclude at the close of business March 1, 2004. **(NASD Case #C11040001)**

Paul Michael Daly (CRD #2970512, Registered Representative, Highland Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Daly, no monetary sanctions have been imposed. Without admitting or denying the allegations, Daly consented to the described sanction and to the entry of findings that he failed to respond timely to NASD requests for information regarding a customer complaint containing allegations of unauthorized trades.

Daly's suspension began February 2, 2004, and will conclude at the close of business March 2, 2004. **(NASD Case #C07030087)**

Julio Enrique DeJesus (CRD #4086955, Registered Representative, Yonkers, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DeJesus consented to the described sanction and to the entry of findings that he falsified bank withdrawal slips and misused \$15,000 by initiating unauthorized withdrawals from bank client accounts. **(NASD Case #C11030043)**

Daniel Louis Denney (CRD #1886850, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Denney reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Denney consented to the described sanctions and to the entry of findings that, while associated with a member firm, he recommended and effected a high-risk investment in a private equity fund for a public customer without having reasonable

grounds for believing that the recommendation and resulting transaction were suitable because the customer did not meet the minimum income and net worth requirements for the investment.

Denney's suspension will begin February 17, 2004, and will conclude at the close of business March 1, 2004. (NASD Case #C06030043)

Coleman Joseph Devlin (CRD #2317635, Registered Representative, Baltimore, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, including disgorgement of financial benefits received, suspended from association with any NASD member in any capacity for 15 business days, and required to requalify by exam as a general securities representative. Without admitting or denying the allegations, Devlin consented to the described sanctions and to the entry of findings that he recommended and effected uncovered put option transactions in the account of a public customer without having reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customer based upon the customer's financial situation, investment objectives, and needs. The findings also stated that Devlin exercised discretion in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm.

Devlin's suspension began January 5, 2004, and concluded at the close of business January 26, 2004. (NASD Case #C9A030042)

Michael Vincent Drayton (CRD #2828236, Registered Representative, Villa Rica, Georgia) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. The fine must be paid before Drayton reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Drayton consented to the described sanctions and to the entry of findings that he participated in an undisclosed outside business activity, for compensation, without providing his member firm with prompt written notice. The findings also stated that Drayton operated a Web site that did not disclose the name of his NASD member firm and had not been approved by his member firm.

Drayton's suspension began February 2, 2004, and will conclude at the close of business March 1, 2004. (NASD Case #C07030064)

James Robert Edrington (CRD #4564293, Associated Person, Eagan, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Edrington reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Edrington consented to the described sanctions and to the entry of findings that he incorrectly answered questions on his Form U4 and failed to respond timely to NASD requests for information.

Edrington's suspension began February 2, 2004, and will conclude August 1, 2004. (NASD Case #C04030071)

Patrick Troy Fanning (CRD #4051410, Registered Representative, Mechanicsville, Maryland) was barred from association with any NASD member in any capacity. The sanction was based on findings that Fanning converted funds from the accounts of public customers because he withdrew and kept for his own use money from clients' accounts without their knowledge, consent, or authorization. The findings also stated that Fanning transferred money from the accounts of public customers to the accounts of other customers to cover his unauthorized withdrawals with funds from other customers' accounts. NASD also found that Fanning failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10030045)

Brian Frederick Ferraioli (CRD #2864240, Registered Representative, Moriches, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Ferraioli consented to the described sanctions and to the entry of findings that he executed a short sale transaction in a public customer's account without the customer's prior knowledge, authorization, or consent.

Ferraioli's suspension began February 2, 2004, and concluded at the close of business February 13, 2004. (NASD Case #C11030045)

Michael Barnes Fishbein (CRD #2182699, Registered Principal, Bronx, New York) submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Fishbein consented to the described sanctions and to the entry of findings that he threatened a former member of his firm with bodily harm and effected an unauthorized transaction in the account of a public customer.

Fishbein's suspension began January 20, 2004, and will conclude at the close of business April 19, 2004. (NASD Case #C10030022)

Leroy W. Gallman, Jr. (CRD #2669313, Registered Representative, East Orange, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for one year, and ordered to pay \$20,000 in disgorgement of commissions in partial restitution to a public customer. The fine and restitution must be paid before Gallman reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gallman consented to the sanctions and to the entry of findings that he recommended and effected securities transactions in the account of a public customer without having reasonable grounds for believing that such transactions were suitable for the customer in view of size, frequency, and nature of the recommended transactions, and in light of the customer's investment objections, circumstances, and needs.

Gallman's suspension began January 20, 2004, and will conclude at the close of business January 19, 2005. (NASD Case #C9B030085)

Anthony Dale George (CRD #805714, Registered Representative, Palm Beach Gardens, Florida) and Robert Barton McAnany (CRD #1152184, Registered Principal, Palm Beach Gardens, Florida) submitted an Offer of Settlement in which George was fined \$5,000 and suspended from association with any NASD member in any capacity for 13 months. McAnany was fined \$35,283.27, including disgorgement of \$30,283.27 in commissions, and suspended from association with any NASD member in any capacity for 12 months. McAnany's fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, George and McAnany consented to the described sanctions and to the entry of findings that they participated in private securities transactions, for compensation, without prior written notice to their member firm.

George's suspension began February 2, 2004, and will conclude at the close of business March 1, 2005. McAnany's suspension began February 2, 2004, and will conclude at the close of business February 1, 2005. (NASD Case #C07030029)

Raymond Blake Gibson (CRD #3035781, Registered Representative, Carle Place, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Gibson converted more than \$34,000 in premium payments from insurance policyholders. The findings also stated that Gibson failed to respond to NASD requests for information. (NASD Case #C07030049)

Louis Schweitzer Gray (CRD #4380025, Associated Person, Chatsworth, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Gray willfully misrepresented material facts on a Form U4. (NASD Case #C02030015)

Jeffrey Keith Hall (CRD #1183661, Registered Representative, Dearborn, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Hall reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hall consented to the described sanctions and to the entry of findings that he failed to provide his member firm with prompt written notice of his outside business activities for compensation. The findings also stated that Hall failed to respond timely and completely to NASD requests for documents and information.

Hall's suspension will begin February 17, 2004, and will conclude at the close of business February 16, 2005. (NASD Case #C8A030102)

Jay Han (CRD #4269123, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Han consented to the described sanctions and to the entry of findings that he engaged in business activities for a non-member company outside the scope of his relationship with his member firm and failed to provide written notice, or any notice, of this business activity to his firm.

Han's suspension began February 2, 2004, and will conclude at the close of business February 23, 2004. (NASD Case #C10030120)

Donald Ralph Harmer (CRD #2386417, Registered Representative, Stroudsburg, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Harmer reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Harmer consented to the described sanctions and to the entry of findings that he failed to file promptly a Form U4 amendment with NASD to disclose material information.

Harmer's suspension began February 2, 2004, and will conclude May 1, 2004. (NASD Case #C9A030044)

Chris Dinh Hartley (CRD #1799834, Registered Representative, San Jose, California) was fined \$7,500 and suspended from association with any NASD member in any capacity for 90 days. The National Adjudicatory Council (NAC) imposed the sanctions following the appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Hartley participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm prior to engaging in such activities.

Hartley has appealed this action to the SEC. The sanctions are not in effect pending the SEC's consideration of the appeal. (NASD Case #C01010009)

Christopher Head (CRD #3053211, Registered Representative, Annapolis, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Head consented to the described sanction and to the entry of findings that he made unauthorized withdrawals totaling \$6,500 from the account of a public customer and improperly transferred these funds to the accounts of two other customers. The findings stated that Head transferred the funds to the account of one customer to make up for trading losses in the customer's account and transferred funds to the account of another customer to pay for an exit penalty being imposed upon the customer for the redemption of a mutual fund. NASD found that Head effected the improper withdrawals from the public customer's account by creating fictitious letters of authorization and forging the customer's signature to these letters. (NASD Case #C9A030040)

Maria Dolores Herrera (CRD #4464058, Associated Person, San Jose, California) was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Herrera reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanctions were based on findings that Herrera willfully failed to disclose a material fact on her Form U4.

Herrera's suspension began January 5, 2004, and will conclude at the close of business January 4, 2005. (NASD Case #C01030016)

James Paul Hood, Jr. (CRD #4467331, Associated Person, Fort Worth, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hood assisted a public customer in opening a new bank account at the parent company of his member firm and, without the customer's knowledge or consent, issued ATM cards on the customer's account and began making unauthorized withdrawals on the same day the account was opened. The findings also stated that Hood authorized automatic bank drafts by several of his creditors to pay his personal expenses and bills. Furthermore, NASD found that Hood caused \$19,380.91 to be withdrawn from the customer's account without the customer's authorization, knowledge, or consent. In addition, the findings stated that Hood failed to respond to NASD requests for information. (NASD Case #C06030017)

Richard Peter Hveem (CRD #2622370, Registered Representative, Weehawken, New Jersey) submitted an Offer of Settlement in which he was fined \$5,000, including disgorgement of \$1,885.27 in commission, suspended from association with any NASD member in any capacity for two months, and ordered to pay \$17,937.12 in restitution to a public customer. The fine and restitution must be paid before Hveem reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hveem consented to the described sanctions and to the entry of findings that he executed unauthorized trades in the account of a public customer without prior authorization from the customer and no written authority to trade on discretion in the account.

Hveem's suspension began February 2, 2004, and will conclude at the close of business April 1, 2004. (NASD Case #C9B030037)

Sang Jin Kim (CRD #2332712, Registered Principal, Deer Park, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Kim consented to the described sanctions and to the entry of findings that he attempted to settle a customer complaint against him by proposing settlement terms without informing his member firm.

Kim's suspension began January 20, 2004, and concluded at the close of business February 2, 2004. (NASD Case #C10030114)

Anthony Koulouris (CRD #3011289, Registered Representative, Carle Place, New York) was barred from association with any NASD member in any capacity for failing to respond to NASD requests for information and for testifying falsely at an NASD on-the-record interview. The findings also stated that Koulouris effected an unauthorized transaction in the account of a public customer and willfully failed to disclose materials facts on his Form U4. (NASD Case #C10030042)

Santhosh Kumar (CRD #2823790, Registered Representative, Elmont, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. The fine must be paid before Kumar reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kumar consented to the described sanctions and to the entry of findings that he provided a \$7,500 check to an attorney-in-fact for a public customer and executed a promissory note for \$12,000 without the prior written authorization from the attorney-in-fact, the customer, or his member firm. The findings also stated that, by doing so, Kumar impermissibly shared in the losses of the customer's account.

Kumar's suspension began February 2, 2004, and will conclude at the close of business February 23, 2004. (NASD Case #C10030133)

Ronald Lee Lambert (CRD #801165, Registered Principal, W. Worthington, Ohio) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Lambert, no monetary sanctions have been imposed. Without admitting or denying the allegations, Lambert consented to the described sanction and to the entry of findings that a member firm, acting through Lambert, prepared inaccurate trial balances, net capital computations, and FOCUS Part IIA reports. The findings also stated that Lambert failed to respond fully to NASD requests for documentation.

Lambert's suspension will begin February 17, 2004, and will conclude at the close of business March 17, 2004. (NASD Case #C8B030014)

David Edmund Larue (CRD #2571293, Registered Principal, West Palm Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Larue reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Larue consented

to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for documents and information.

Larue's suspension began January 20, 2004, and will conclude at the close of business February 18, 2004. (NASD Case #C07030086)

Vincent Anthony Leone (CRD #1431345, Registered Principal, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any financial and operations principal (FINOP) capacity for 30 days. Without admitting or denying the allegations, Leone consented to the described sanctions and to the entry of findings that he maintained inaccurate and/or incomplete books and records for his member firm, and, by erroneously including an allowable asset on his firm's FOCUS report, caused his firm's non-compliance with the Net Capital Rule.

Leone's suspension began February 14, 2004, and will conclude March 14, 2004. (NASD Case #C10030047)

Gregory Lee Lewis (CRD #3177053, Registered Representative, Plano, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Lewis reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lewis consented to the described sanctions and to the entry of findings that he submitted a life insurance application to his member firm on behalf of a public customer who cancelled the policy and Lewis' member firm prepared a refund check payable to the customer for all premiums paid. The findings also stated that, before the refund check was mailed to the customer, Lewis changed the customer's address of record to an address he controlled, took the customer's check, signed his and the customer's name on it without the customer's authorization, cashed it, and then delivered the funds to another individual without his firm's knowledge or consent.

Lewis' suspension will begin February 17, 2004, and will conclude at the close of business February 16, 2005. (NASD Case #C06030032)

Zheng Lu (CRD #2066154, Registered Representative, Rockville, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Lu reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the

allegations, Lu consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information.

Lu's suspension began February 2, 2004, and will conclude at the close of business April 1, 2004. **(NASD Case #C04030070)**

David Christopher Lupo (CRD #1246232, Registered Representative, Mechanicsburg, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Lupo consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in the securities account of a public customer, and exercised discretionary power in that customer's account without prior written authorization from the customer or acceptance in writing by his member firm of the account as discretionary.

Lupo's suspension will begin February 17, 2004, and will conclude at the close of business March 1, 2004. **(NASD Case #C06030038)**

Leticia Lozano (CRD #2698473, Registered Representative, Arlington, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lozano consented to the described sanction and to the entry of findings that she used a Social Security number belonging to a public customer to obtain a credit card and, thereafter, used the credit card to obtain \$4,000 in cash advances and/or personal items without the customer's authorization, knowledge, or consent. **(NASD Case #C06030031)**

Bill Maddox, Jr. (CRD #1550930, Registered Principal, Visalia, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$23,872 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before Maddox reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Maddox consented to the described sanctions and to entry of findings that he participated in private securities transactions without providing prior written notification to, and receiving prior written approval from, his member firm.

Maddox's suspension will begin February 17, 2004, and will conclude May 16, 2004. **(NASD Case #C02030074)**

Tyrone Richard Melville (CRD #4587858, Registered Representative, New York, New York) submitted an Offer of Settlement in which he was fined \$3,000 and suspended from

association with any NASD member in any capacity for 30 days. The fine must be paid before Melville reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegation, Melville consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U4.

Melville's suspension began February 2, 2004, and will conclude at the close of business March 2, 2004. **(NASD Case #C10030096)**

Matityahu Meshizahav (CRD #2834481, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Meshizahav forged the name of a public customer on his member firm's check request forms that directed that the funds be sent to the customer at either Meshizahav's place of business or residence, caused the forms to be processed by his firm and its clearing broker, caused his firm to issue checks totaling \$20,500 that were sent to the customer at Meshizahav's place of business or residence, and cashed the checks, thereby converting \$20,500 to his own use and benefit. The findings also stated that Meshizahav failed to respond to NASD requests for information and documents. **(NASD Case #C10030063)**

Richard Montgomery Meyerhoff (CRD #2813681, Registered Representative, New Rochelle, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000, suspended from association with any NASD member in any capacity for two years, and ordered to disgorge \$70,295, plus interest, in commissions in partial restitution to public customers. The fine and disgorgement must be paid before Meyerhoff reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Meyerhoff consented to the described sanctions and to the entry of findings that he recommended to public customers that they engage in a trading strategy that primarily involved purchasing securities on margin and writing covered calls on the securities, and effectuated this strategy for the customers without reasonable grounds to believe the transactions and strategy were suitable in light of the financial situation, investment objectives, and needs of the customers.

Meyerhoff's suspension began January 20, 2004, and will conclude at the close of business January 19, 2006. **(NASD Case #CLI030029)**

Gregory Alan Newton (CRD #2714180, Registered Representative, San Francisco, California) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for one year, and ordered to pay \$12,000 in partial restitution to a public

customer. The fine must be paid before Newton reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Newton consented to the described sanctions and to the entry of findings that he made a recommendation to a public customer and did not have a reasonable basis for believing that the recommendation made was suitable for the customer based on the customer's financial situation, needs, and other security holdings.

Newton's suspension began February 2, 2004, and will conclude at the close of business February 1, 2005. (NASD Case #C3A030037)

Terry Lamar Obee (CRD #2326611, Registered Representative, Vallejo, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Obee consented to the described sanction and to the entry of findings that he received \$125,000 from a public customer for investments in real estate ventures, transferred the funds to his personal brokerage account at his member firm, and converted the funds to buy and sell stocks and options for his own account without the knowledge or consent of the customer. The findings also stated that Obee's member firm placed a restriction on options trading in his personal brokerage account at the firm to permit covered option writing only, and, despite the restriction, Obee tendered \$40,000 to his supervisor at the firm to be deposited in the supervisor's brokerage account and directed options transactions in the account, circumventing the restrictions placed on his personal brokerage account. In addition, NASD found that Obee failed to respond to NASD requests for information. (NASD Case #C8A020092)

Stacy Lynn Passey (CRD #2686699, Registered Representative, Carlsbad, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Passey consented to the described sanction and to the entry of findings that she failed to respond to NASD requests for information. (NASD Case #C02030071)

James Clinton Pearce (CRD #1206325, Registered Principal, Ashburn, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 30 business days, and ordered to requalify as a general securities representative within 90 days following the suspension. Without admitting or denying the allegations, Pearce consented to the described sanctions and to the entry of findings that he recommended and effected, or caused to be effected, purchases

of large positions of mutual funds in the accounts of public customers. The findings stated that Pearce's recommendations were made without a reasonable basis for believing them to be suitable for the customers.

Pearce's suspension will begin February 17, 2004, and will conclude at the close of business March 29, 2004. (NASD Case #C02030073)

Jose Alberto Pietri (CRD #2951257, Registered Representative, Hopewell, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pietri consented to the described sanction and to the entry of findings that he participated in outside business activities, for compensation, without providing prompt written notice to his member firm. The findings also stated that Pietri failed to respond to NASD written requests for information. (NASD Case #C07030089)

Joiceita T. Polk (CRD #3094319, Registered Principal, Culver City, California) was fined \$10,000, suspended from association with any NASD member in any principal capacity for 60 days, and required to requalify by exam as a general securities principal. The fine must be paid before Polk reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanctions were based on findings that Polk directed her member firm to utilize the instrumentalities of interstate commerce to engage in the securities business while failing to maintain its minimum net capital requirements in contravention of SEC Rule 15c3-1.

Polk's suspension began January 5, 2004, and will conclude at the close of business March 4, 2004. (NASD Case #C02030044)

Matthew Carson Purcell (CRD #4554591, Associated Person, Seattle, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Purcell reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Purcell consented to the described sanctions and to the entry of findings that he willfully misrepresented a material fact on a Form U4 submitted through his member firm.

Purcell's suspension began February 2, 2004, and will conclude at the close of business February 1, 2005. (NASD Case #C3B030021)

Timothy Paul Quinn (CRD #1934619, Registered Principal, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Quinn reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Quinn consented to the described sanctions and to the entry of findings that, acting on behalf of his member firm, he failed to prepare trial balances and computations of aggregate indebtedness and net capital on a monthly basis. The findings also stated that Quinn failed to maintain copies of the firm's checkbooks, bank statements, cancelled checks, and cash reconciliations.

Quinn's suspension began February 2, 2004, and will conclude August 1, 2004. (NASD Case #C04030068)

Fida Rahman (CRD #1841337, Registered Representative, North Brunswick, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 15 business days, and ordered to pay \$3,238, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Rahman consented to the described sanctions and to the entry of findings that he effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Rahman's suspension began February 2, 2004, and will conclude at the close of business February 23, 2004. (NASD Case #C10030119)

Anthony Joseph Raimondi (CRD #370247, Registered Representative, Dix Hills, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Raimondi consented to the described sanction and to the entry of findings that he caused purported account statements for the account of a public customer at his member firm to be created on the purported letterhead of his member firm's clearing firm that contained false, misleading, and deceptive information concerning the holdings in the customer's account and the investment performance of the holdings. The findings also stated that Raimondi caused these account statements to be prepared and delivered to the public customer when he knew, or should have known, that the statements were false, misleading, and deceptive. (NASD Case #C10030127)

Patrick Richard Ruhle (CRD #2353844, Registered Principal, East Meadow, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Ruhle

reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ruhle consented to the described sanctions and to the entry of findings that he exercised control over the securities account of a public customer and effected securities transactions, including options transactions, in the customer's account maintained at his member firm. The findings also stated that the extent of trading was excessive in view of the customer's objectives, financial situation, and the nature of the customer's account.

Ruhle's suspension began January 20, 2004, and will conclude at the close of business October 19, 2004. (NASD Case #CLI030031)

Geoffrey Wray Sandoval (CRD #4299521, Registered Representative, Elk Grove, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Sandoval willfully failed to disclose a material fact on his Form U4. The findings also stated that Sandoval submitted a forged document to his member firm. In addition, NASD found that Sandoval failed to respond to NASD requests for information. (NASD Case #C01030011)

David Joseph Scranton (CRD #1711211, Registered Representative, Old Saybrook, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Scranton consented to the described sanctions and to the entry of findings that he paid one premium on a variable life insurance policy of public customers without their consent.

Scranton's suspension began January 2, 2004, and concluded at the close of business January 12, 2004. (NASD Case #C11030044)

Gary Van Schwendinger (CRD #2237185, Registered Representative, Fort Myers, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Schwendinger consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C04030064)

Frank James Skelly, III (CRD #2160437, Registered Principal, Rockville Centre, New York) and **Craig Howard Gross (CRD #2104270, Registered Principal, Kings Park, New York)** were barred from association with any NASD member in any capacity. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Skelly and Gross failed to respond to NASD requests to appear for on-the-record interviews. (NASD Case #CAF000013)

Jere Boyd Spurlock (CRD #1039936, Registered Representative, Fort Worth, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, including disgorgement of \$2,360 in earned commissions, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Spurlock consented to the described sanctions and to the entry of findings that, while associated with a member firm, he recommended that a public customer switch from an income-producing mutual fund to a high-risk capital appreciation fund without having reasonable grounds for believing that the recommendation and resultant transaction were suitable for the customer. The findings also stated that, to effect the unsuitable recommendation, Spurlock included inaccurate information on the customer profile used to make the investment. NASD found that Spurlock advised the customer to redeem his existing fund, and then he retrieved the proceeds of the redemption from the customer and used them to make the new investment. NASD determined that this, together with indicating that the source of funds for the new investment was from discretionary income, prevented the "switch" letter that was required pursuant to the member firm's procedures from being generated.

Spurlock's suspension will begin February 17, 2004, and will conclude at the close of business March 29, 2004. (NASD Case #C06030044)

James Peter Staff (CRD #1003088, Registered Principal, Bronxville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Staff consented to the described sanction and to the entry of findings that he pled guilty to criminal charges. (NASD Case #C10030125)

Robert Tedeschi (CRD #2616329, Registered Principal, Brooklyn, New York) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for four months. In light of the financial status of Tedeschi, no monetary sanction has been imposed. Without admitting or denying the allegations, Tedeschi consented to the described sanction and to the entry of findings that he either intentionally or recklessly failed to disclose materially adverse information to public customers in connection with his recommendation that they purchase a stock and failed to disclose his financial incentive for recommending a stock. NASD also found that Tedeschi acted in contravention of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, promulgated thereunder, in that, by use of the means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, he employed a device, scheme, or artifice to defraud; omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

or engaged in acts, practices, or a course of business that operated or could operate as a fraud or deceit upon persons in connection with the recommendations he made to customers.

Tedeschi's suspension began February 2, 2004, and will conclude at the close of business June 1, 2004. (NASD Case #C3A030038)

Alphonso Joseph Vruno, Sr. (CRD #2593764, Registered Representative, St. Charles, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vruno consented to the described sanction and to the entry of findings that he failed to invest or deposit \$43,000 in a public customer's securities account as directed by the customer. The findings also stated that Vruno converted the customer's funds for his own use and benefit and not for the benefit of the customer. In addition, NASD found that Vruno misused \$58,600 that was borrowed from the customer and executed promissory notes, and failed to repay when the customer requested repayment. (NASD Case #C8A030098)

Matthew Thomas Wade (CRD #1195175, Registered Representative, Wantagh, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Wade reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wade consented to the described sanctions and to the entry of findings that he falsely altered a copy of a \$15,647.29 check drawn on an outside bank which he made payable to a public customer to purchase a fixed annuity so that it appeared to be a new check for \$1,847.29. The findings also stated that Wade submitted the altered copy by fax to his member firm as proof that the customer had made an additional \$1,847.29 investment so that Wade might obtain an additional bonus in connection with his sales activities.

Wade's suspension began February 2, 2004, and will conclude at the close of business November 1, 2004. (NASD Case #CLI030033)

Alexander Wehr (CRD #1911038, Registered Principal, Fort Worth, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Wehr reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wehr consented to the described sanctions and to the entry of findings that he participated in a private securities transaction and failed to provide prior written notice, written or otherwise, to his member

firm describing the proposed transaction, his role therein, and whether he had received, or might receive, selling compensation in connection with the transaction.

Wehr's suspension will begin February 17, 2004, and will conclude at the close of business August 16, 2004. (NASD Case #C06030041)

Eugene Wittstock (CRD #2827218, Registered Representative, Sterling Heights, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Wittstock reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wittstock consented to the described sanctions and to the entry of findings that he failed to provide his member firm with prompt written notice of his outside business activities for compensation. The findings also stated that Wittstock failed to respond timely and completely to NASD requests for documents and information.

Wittstock's suspension will begin February 17, 2004, and will conclude at the close of business February 16, 2005. (NASD Case #C8A030101)

Individual Fined

George Martin Livingstone, III (CRD #4108991, Registered Principal, Wilton, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. The fine must be paid before Livingstone reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Livingstone consented to the described sanctions and to the entry of findings that he failed to ensure that his member firm filed timely its annual audited reports. The findings also stated that Livingstone was responsible for his member firm conducting a securities business while its membership in NASD was suspended. (NASD Case #C10030129)

Decision Issued

The following decision has been issued by the District Business Conduct Committee (DBCC) or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of January 2, 2004. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Joseph Abbondante (CRD #1879052, Registered Principal, Freehold, New Jersey) was fined \$96,500, suspended from association with any NASD member in any capacity for one year, and ordered to requalify by exam as a general securities representative. The sanctions were based on findings that Abbondante engaged in private securities transactions, for compensation, without prior written notice to, and written approval from, his member firm. The findings also stated that Abbondante engaged in outside business activities without appropriate notice to his member firm. NASD also found that Abbondante misrepresented material facts to public customers regarding a security.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C10020090)

Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Darren Ray Adams (CRD #3180366, Registered Representative, Chicago, Illinois) was named as a respondent in an NASD complaint alleging that he falsified letters of authorization to effect the wire transfer of \$42,500 from a public customer's brokerage account held at his member firm. The complaint also alleges that Adams falsified a bank check request for \$6,000 to transfer funds from the customer's account. The complaint further alleges that the funds from the wire transfer and the check were directed and deposited to the account of his friend and then forwarded to his own account for his benefit and not for the benefit of the customer. In addition, the complaint alleges that Adams affixed the signature of the customer to a letter of authorization to effect the transfer of \$42,500 from the customer's account at the firm, without the customer's knowledge or authority. Furthermore, the complaint alleges that Adams affixed the signature of the customer to a withdrawal request of \$35,000 from the customer's annuity and he deposited the funds or caused the funds to be deposited in the customer's account at the firm without the knowledge or authority of the customer. The complaint also alleges that Adams failed to respond to NASD requests for information. (NASD Case #C8A030097)

Thomas John Chase (CRD #1313012, Registered Representative, Bratenahl, Ohio) was named as a respondent in an NASD complaint alleging that, without the knowledge or consent of a public customer, he caused checks totaling \$405,600.83 to be withdrawn from the securities account of a customer for which Chase was the broker, endorsed the checks, and used the proceeds for his benefit or for the benefit of someone other than the customer. The complaint also alleges that Chase, without the knowledge or consent of a public customer, faxed forged letters of authorization to his member firm requesting that checks totaling \$301,014.51 be made payable to public customers and disbursed from the customers' securities accounts at his member firm, endorsed the checks, and deposited the checks into his personal bank account for his personal benefit or for some purpose other than the benefit of the customers. In addition, the complaint alleges that Chase took possession of a \$6,800 check that was a refund of an initial life insurance premium paid by a public customer after the insurance application was declined, endorsed the check, and used the proceeds from the check for his own benefit or for the benefit of someone other than the customer. Furthermore, the complaint alleges that Chase failed to respond to NASD requests for documents and information (**NASD Case #C8B030031**)

James Michael Coyne, Sr. (CRD #601719, Registered Representative, Media, Pennsylvania) was named as a respondent in an NASD complaint alleging that he, directly or indirectly, by use of any means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly used or employed, in connection with the purchase or sale of securities, manipulative or deceptive devices or contrivances; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. The complaint also alleges that Coyne engaged in the short-term purchase and sale of securities in the account of public customers without having a reasonable basis for believing that such transactions were suitable for the customers based upon the frequency of the transactions, the nature of their account, and their financial situation and needs. The complaint further alleges that Coyne made unsuitable use of margin in the account of public customers and failed to follow a public customer's instructions to liquidate his joint account. (**NASD Case #C9A030041**)

Roger Parker May (CRD #717728, Registered Principal, Golden, Colorado) was named as a respondent in an NASD complaint alleging that he omitted to disclose material information in connection with securities transactions. The complaint also alleges that May did not have a reasonable basis for believing that recommendations made to public customers were suitable for public customers based upon the information provided as to their financial circumstances and needs and other security holdings. In addition, the complaint alleges that May

executed, or caused the execution of, unauthorized shares of stock in the account of a public customer. (**NASD Case #C3A030050**)

William Taro Mukai (CRD #1760223, Registered Representative, Des Plaines, Illinois) was named as a respondent in an NASD complaint alleging that he recommended and effected excessive securities transactions and generated commissions in public customers' accounts. The complaint also alleges that Mukai made trading recommendations without having a reasonable basis for believing that the recommendations and resultant transactions were suitable for the customers based upon customers' age, financial situation, and investment objectives. The complaint further alleges that Mukai exercised discretion in the accounts of the customers without having obtained prior written authorization from the customers and prior written acceptance of the account as discretionary by his member firm. Furthermore, the complaint alleges that Mukai prepared and delivered to customers misleading communications, consisting of summaries of the trading in the customers' accounts that contained exaggerated, unwarranted, and misleading statements by omitting losses and misrepresenting losses as gains. In addition, the complaint alleges that Mukai provided these misleading communications to the customers without submitting them to the appropriate registered principal of the firm for review and approval prior to their distribution, as required by the firm's procedures. (**NASD Case #C8A030093**)

Ronald J. Ponella (CRD #2616823, Registered Representative, Port Jefferson Station, New York) was named as a respondent in an NASD complaint alleging that he converted \$2,000 of a public customer's funds for his own use and benefit. The complaint also alleges that Ponella failed to respond to NASD requests to appear for an on-the-record interview. (**NASD Case #CLI030030**)

Adam R. Rodriguez (CRD #4299928, Registered Representative, San Antonio, Texas) was named as a respondent in an NASD complaint alleging that he misused a public customer's funds and forged the customer's signature. The complaint alleges that the customer met with Rodriguez, during which time she instructed him to open an estate account and deposit funds into the account, and later instructed him to invest the funds in the estate account in a fixed annuity. However, the complaint alleges that, without the customer's authorization, knowledge, or consent, Rodriguez invested funds in part in the fixed annuity and used the remaining funds to purchase a check in the same amount which he made payable to an account he controlled. The complaint further alleges that Rodriguez never cashed the check and held it for several months before returning it to the estate account. In addition, the complaint alleges that Rodriguez completed an Annuity Service Request Form, forged the customer's signature on the form, and withdrew funds in the

form of a check from an annuity owned by the customer without the customer's authorization, knowledge, or consent. (NASD Case #C06030037)

Steven Schaefer (CRD #1894353, Registered Principal, Kings Park, New York) was named as a respondent in an NASD complaint alleging that, while using the means and instrumentalities of interstate commerce to offer securities for sale, Schaefer omitted to state material facts necessary in order to make the statements made in connection with such offers, in light of the circumstances in which they were made, not misleading. The complaint also alleges that Schaefer, while using the means and instrumentalities of interstate commerce to offer securities for sale, made material misrepresentations in the form of price predictions to induce transactions and transactions did occur. (NASD Case #C3A030053)

Firms Suspended for Failure to Supply Financial Information

The following firms were suspended from membership in NASD for failure to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 8221. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Dick Spencer & Associates
San Marino, California
(December 9, 2003)

Epsilon Management Services, Inc.
Wellesley, Massachusetts
(December 9, 2003)

Leo Group, Inc.
Newport Beach, California
(January 9, 2004)

Firm Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

The Camelot Group, Inc. f/k/a First American Equities, Inc.
Ft. Lauderdale, Florida
(December 18, 2003)

Firm Suspended Pursuant to NASD Rule 9531 for Failure to Pay Arbitration Fees

Shelman Securities Corp.
Dallas, Texas
(December 15, 2003)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210

(The date the bar became effective is listed after the entry.)

Coulter, Cornell L.
Newport Beach, California
(December 22, 2003)

Gentry, Joshua
Kyle, Texas
(December 8, 2003)

Langley, Robert J.
Laguna Beach, California
(December 3, 2003)

Reardon, Michael D.
Jasper, Georgia
(December 29, 2003)

Szilagyi, Melissa
Brookfield, Illinois
(December 10, 2003)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Bottomly, Van B.
Raleigh, North Carolina
(December 23, 2003)

Fonesca, Christopher
Philadelphia, Pennsylvania
(December 9, 2003)

Geniton, Edward J.
Staten Island, New York
(December 29, 2003)

Zemlyansky, Mikhail
Brooklyn, New York
(December 29, 2003)

Individual Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

Casciole, Ernest S.
Hampton Bays, New York
(January 12, 2004)

NASD Fines CSFB \$170,000; Orders \$600,000 in Restitution for Failure to Give Best Execution to Customer Orders after IPO

NASD announced that Credit Suisse First Boston LLC (CSFB) has been censured, fined \$150,000, and required to pay more than \$600,000 in restitution for failing to provide six customers with the best available price at the opening on the first day of trading of MP3.com. NASD also found that CSFB failed to honor its published quotations for MP3 in 30 instances on the same day and fined it \$20,000.

On July 21, 1999, CSFB, as the lead underwriter, conducted MP3.com's initial public offering (IPO) and MP3 began trading on The Nasdaq Stock Market. At the opening of trading on that day, CSFB had orders to buy more shares of MP3 than it had to sell. CSFB did not meet its obligation to make every reasonable effort to execute six of its customer sell orders fully and promptly.

NASD's Market Regulation Department found that CSFB initially sold short over 330,000 shares of MP3 to other customers at a price of \$100.50 per share. While CSFB gave prompt partial executions to three of the six customer sell orders for approximately 15 percent of the combined volume of the six sell orders, the balance of the six orders received untimely executions. Instead of satisfying its best execution obligations as to the remaining portion of the six customer orders, CSFB executed them as the market declined. Due to the manner in which CSFB executed the six customer orders, CSFB profited, and its customers were disadvantaged by, \$606,000. CSFB was censured and fined \$150,000 for violating the duty of best execution and has made restitution to the customers.

Additionally, during this period, CSFB received 277 SelectNet orders to sell nearly 150,000 shares of MP3 from other market participants that were priced equal to or below CSFB's bid. Thirty of these orders were presented to CSFB at its published bid in an amount up to its published quotation size. Under NASD and federal securities laws, market makers are required to execute an order to buy or sell a security from another broker or dealer at a price at least as favorable as the market maker's published quotation for at least the number of shares offered in the quotation. CSFB failed to execute these 30 orders when presented and, therefore, failed to honor its published quotation

(commonly known as "backing away") and was fined \$20,000. CSFB neither admitted nor denied NASD's findings.

NASD Hearing Panel Finds Former Tech Banker Frank P. Quattrone Failed to Respond in NASD Investigation

One-Year Suspension Becomes Lifetime Bar Unless Testimony Is Provided

NASD announced that an NASD Hearing Panel found that Frank P. Quattrone, the former head of Credit Suisse First Boston's (CSFB's) technology sector investment banking unit, failed to cooperate in an NASD investigation, violating NASD rules.

On March 6, 2003, NASD charged Quattrone with failing to cooperate in an NASD investigation. The complaint was an outgrowth of NASD investigations into investment banking activities, including IPO pricing and analyst conflicts of interest, that began in May 2000. The Hearing Panel found that Quattrone never provided NASD with testimony requested in February 2003.

The Hearing Panel rejected Quattrone's arguments that he should not testify because of pending criminal charges against him; that NASD Enforcement did not need his testimony; and that compelled testimony would violate his Fifth Amendment right. The Hearing Panel determined that while Quattrone did fail to testify, there were certain mitigating circumstances. NASD has refused to delay Quattrone's testimony and insisted on expediency without a compelling reason.

The Hearing Panel suspended Quattrone for one year and fined him \$30,000. The Hearing Panel further stated that, if Quattrone does not fully and unconditionally provide information within one year, he will be permanently barred from the securities industry.

The presiding Hearing Officer dissented on the sanctions, concluding that Quattrone's conduct warranted an immediate bar from the industry.

NASD's Department of Enforcement appealed this matter to NASD's National Adjudicatory Council (NAC), and Quattrone cross-appealed. On appeal, the sanctions may be increased, decreased, modified, or reversed.

A Hearing Panel consists of an NASD Hearing Officer, along with two members of the securities industry. The NAC is a 14-person committee composed of seven industry and seven non-industry members that decides appeals from disciplinary, membership, and exemption decisions; rules on statutory disqualification applications; and advises on other policy matters.

The decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CAF030008)

NASD Charges Waddell & Reed with Suitability Violations Relating to Thousands of Variable Annuity Exchanges and Seeks Customer Compensation; Two Senior Execs Also Charged

NASD filed a complaint charging Waddell & Reed, Inc., of Overland Park, Kansas, for recommending 6,700 variable annuity exchanges to its customers without determining the suitability of the transactions. These exchanges, known as “switching,” generated \$37 million in commissions and cost Waddell’s customers nearly \$10 million in surrender fees. NASD also alleged that, according to its quantitative analysis, at least 1,400 of the firm’s customers were likely to lose money by making these switches. Charges were also brought against the firm’s former President, Robert Hechler, and its National Sales Manager, Robert Williams. In addition to other sanctions, NASD is seeking an order requiring the firm to disgorge commissions and compensate customers.

“Today’s action should make crystal clear that brokers may not recommend that clients replace their variable annuity contracts when the broker has no reasonable basis for believing the replacement is in the client’s, not the broker’s, best interest,” said Mary L. Schapiro, NASD Vice Chairman and President of Regulatory Policy and Oversight. “Engaging in a campaign to make such recommendations without an assessment of the suitability of the exchange, simply because it will advance the firm’s own commercial interests, is completely unacceptable.”

According to the complaint, between January 2001 and August 2002, Waddell engaged in an aggressive campaign to switch the variable annuity contracts of its customers from those issued by one insurance company, United Investors Life Insurance Co. (UILIC), to very similar annuities provided by another insurance company, Nationwide Insurance Co. In doing so, Waddell & Reed failed to take adequate steps to determine whether there were reasonable grounds for the customers to enter into these exchanges, such as determining whether the customers were likely to benefit or lose money from the exchanges, and failed to establish sufficient guidance for the sales force to use in determining the suitability of the exchanges. In fact, many customers were likely to lose money through these switches, which typically would raise concerns about the suitability of these transactions.

In addition, over 700 customers were switched into one Nationwide annuity, rather than another Nationwide annuity that was less expensive and offered far more benefits and greater flexibility to the clients, but provided a lower payout to Waddell’s

sales force. One of the firm’s advisors, in comparing the payouts, noted, “I have no problem selling an annuity that may cost .45 (basis points) more on M&E charges because I have to support my family and pay my assistant and other business overhead.”

The misconduct began after Waddell failed to obtain an agreement to receive a share of certain fees collected by UILIC, the original issuer of annuities sold by Waddell. Waddell found another issuer, Nationwide, which agreed to share with Waddell, some of the fees it collected from Waddell’s customers. From the customer’s perspective, the underlying investment options available in Nationwide’s annuities were otherwise virtually identical to the UILIC contracts.

Beginning in late January 2001, following the agreement with Nationwide, Hechler and others engaged in an aggressive campaign to encourage Waddell’s sales force to replace UILIC annuities previously sold with those offered by Nationwide. Among other things, Hechler issued a series of memoranda to the sales force repeatedly encouraging them to replace existing UILIC variable annuities with Nationwide variable annuities by questioning UILIC’s intentions to provide service to Waddell’s clients, and compensation to the sales force, along with questioning UILIC’s financial strength.

In response to the pressure from senior management, some Waddell regional vice presidents took steps to encourage exchanges. One vice president sent an e-mail to his division managers on March 6, 2001, encouraging a “campaign of every advisor contacting every UILIC client” to explain what was happening with the UILIC relationship, and later set up a “Call-a-Thon” for advisors in his region to call all of their customers with UILIC variable annuities. During this campaign some Waddell advisors expressed concern that these switches were not in the best interests of their clients. One advisor even noted that management’s comments were intended to “prod and scare” advisors into making switches.

Although the president of UILIC assured Hechler on March 14, 2001, that UILIC would continue to provide compensation to Waddell’s advisors and provide service to both policyholders and advisors, Hechler did not relay this information to Waddell’s sales force for almost two months, during which time the switching campaign continued unabated. During that time, Hechler’s actions led to a dramatic increase in the number of switches from UILIC to Nationwide variable annuities.

During March 2001, the number of switches from UILIC contracts to Nationwide contracts jumped 540 percent over the previous month, and the number jumped another 490 percent in April 2001. By August 2002, Waddell had replaced 6,772 UILIC variable annuities, moving approximately \$617 million in assets away from UILIC, costing customers more than \$9.8 million in surrender charges, and generating approximately \$37 million in

commissions to Waddell. Additionally, Waddell earned approximately \$700,000 from fee-sharing arrangements with Nationwide in 2001, and Waddell will continue to accrue such fees annually.

These exchanges of variable annuities were costly to customers in a number of ways. Many customers had to pay surrender charges to switch out of their old policies, and all customers who switched incurred a new surrender charge period that limited their ability to surrender their new annuity contracts. In addition, customers who switched into the Nationwide variable annuities paid higher ongoing expense fees than they had been charged under the old policies. Waddell, on the other hand, made money through the commissions charged on each exchange and through the portion of the annual fees paid by customers that Nationwide shared with Waddell.

Despite repeated requests from its sales force and their supervisors, Waddell failed to provide adequate guidance, analytical tools or criteria for making the critical suitability analysis required under NASD rules for recommending exchanges. As a result, many variable annuity exchanges were recommended by the sales force without having reasonable grounds for believing that the recommendations were suitable for the customers based on their security holdings and their financial situations and needs. In addition, based on NASD's quantitative analysis, in over 1,400 instances, at the recommendation of Waddell, customers entered into exchanges that were likely to result in customers losing money.

Williams, Waddell's National Sales Manager, who actively participated in the switching campaign and had supervisory authority over the sales force and its management, had responsibility for ensuring that transactions are appropriately reviewed for suitability. He was aware, through communication with the sales force, that there were serious shortcomings with Waddell's process for reviewing the suitability of switches from UILIC to Nationwide variable annuities, and that members of the sales force felt pressure to make switches from the firm and Hechler.

NASD has charged the firm with suitability and supervisory violations, Hechler with causing the firm's suitability violations by encouraging the sales force to switch customers, and Williams with supervisory failures in connection with the variable annuity exchanges.

Under NASD rules, the individuals and the firms named in the complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, suspension, bar, or expulsion from NASD.

NASD Bars Louisiana Broker and Orders Restitution for Unsuitable Sales of Variable Annuities and Mutual Funds

NASD announced that John Steven Blount of Lake Charles, LA, has been barred from association with any NASD-regulated securities firm and ordered to pay more than \$1.5 million in restitution plus interest to 10 customers for unsuitable sales of variable annuities and mutual funds totaling over \$6 million.

The unsuitable sales by Blount generated almost \$220,000 in commissions. NASD found that Blount schemed to defraud investors and to frustrate attempts by his employer to supervise his activities. The transactions took place between 1998 and 2001 while Blount was a registered representative of NYLife Securities, Inc. This settlement follows an NASD complaint filed last July that charged Blount with these violations.

"This case was brought in connection with an ongoing series of NASD special examinations and investigations that have focused on the sale of variable annuity products, and have resulted in over 75 annuity-related disciplinary actions taken by NASD since the beginning of 2001," said NASD Vice Chairman Mary Schapiro "Given the popularity of this product, we will continue to focus examination and investigative resources on a wide range of variable annuity related sales practices."

Blount's customers were older, conservative investors who were generally seeking current income from their investments. NASD found that Blount's investment recommendations exposed his customers to excessive market risk, lacked sufficient liquidity, and failed to address the customers' needs for current income.

In one instance, the customer was a 62-year-old retiree who wished to keep his principal investment safe, and had told Blount that he anticipated the need within a few months for \$50,000 to buy a car and to make home repairs. Despite the customer's near-term need for liquidity, Blount recommended that the customer invest almost all of his liquid assets in a variable annuity contract that imposed surrender charges for early withdrawals during the first six years of the contract. Furthermore, Blount recommended allocating the investment to high-risk sub-accounts that were not consistent with the customer's desire to keep his principal safe. In order to buy a car and make home repairs, the customer was forced to draw on his home equity and subsequently had to take early withdrawals from his variable annuity to make the resulting loan payments.

NASD also found that Blount misrepresented material features of the variable annuities in order to induce customers to purchase the products. Additionally, in an effort to circumvent his firm's review of annuity and mutual fund transactions, Blount directed his sales assistant to falsify firm records regarding customers' financial situations and investment objectives.

As part of its overall focus on the sales of variable annuity contracts, NASD has issued educational alerts to both investors and firms to help ensure that these products are properly sold which can be found at:

- ▶ www.nasdr.com/alert_exchange_lifeinsurance.htm,
- ▶ www.nasdr.com/pdf-text/9935ntm.pdf, and
- ▶ www.nasdr.com/pdf-text/0044ntm.pdf.

NASD Fines Worldco and Four of Its Owners \$1.5 Million for Co-Mingling Operations with a Hedge Fund; CEO Barred, Three Others Suspended

NASD announced that it has fined Worldco LLC of New York, NY, and four of its owners \$1.5 million for failing to separate Worldco's business operations from the business and operations of PTJP Partners, a hedge fund. John G. Miller, Worldco's CEO, was barred from serving as a principal of a securities firm for three years. Peter Bruan, founder of Worldco, was suspended for one year, and his sons, Walter Scott Bruan and Christopher Bruan, were suspended for four months and 15 days, respectively. Miller was fined \$250,000; Peter Bruan, \$100,000; Walter Scott Bruan, \$50,000; and Christopher Bruan, \$30,000. Each of the four is a part owner in the firm and their fines are part the \$1.5 million.

PTJP is controlled by members of the Bruan family, including, initially, Peter Bruan. Worldco failed to disclose that Peter Bruan had a controlling ownership interest in Worldco when it applied for NASD membership because of Bruan's concern that the hedge fund's ongoing relationships with other broker/dealers would be disrupted if the other firms learned of his ownership of a competitor. Worldco experienced significant growth during the 1990s due to its day-trading business. Worldco had about 200 individuals associated with it in 1997; by 2001 that number had increased to almost 1,150. PTJP used trading systems, computers and technology provided by and, in some instances, owned by Worldco. At times, PTJP shared certain office space, personnel, and other resources with Worldco. NASD found that, in the past, Worldco failed to establish adequate separation between its business and PTJP's operations, leading to many of the violations.

NASD found that 13 of Worldco's traders and 27 individuals not employed by Worldco, mostly PTJP traders, regularly traded in Worldco's proprietary accounts even though they were not registered, as required by NASD rules. Additionally, at least 35 Worldco traders traded in the PTJP account even though they did not obtain prior written authorization to exercise discretion in a customer account as required by NASD rules.

NASD also found that Worldco maintained inaccurate books and records and submitted inaccurate financial reports to the Securities and Exchange Commission (SEC) and NASD. In particular, as a result of the failure to adequately separate its business from PTJP, Worldco's books, records, and reports did not accurately reflect its individual expenses and revenues.

Further, for over 21 months beginning in early 1999, Worldco inaccurately characterized commission rebates owed to PTJP as revenue to Worldco in anticipation of a possible IPO, resulting in inaccurate books, records, and reports. After market conditions changed and an IPO was no longer practicable, Worldco returned over \$5 million to two Bruan family members for the benefit of PTJP and another hedge fund also connected to the Bruan family.

NASD also found that Worldco and Miller did not reasonably supervise many of these activities to deter and prevent the violations.

In settling these charges, Worldco, John Miller, Peter Bruan, Walter Scott Bruan, and Christopher Bruan neither admitted nor denied the charges.

Christopher Robin Bruan's suspension in any capacity began March 1, 2004, and will conclude at the close of business March 15, 2004.

Peter Bruan's suspension in any capacity began March 1, 2004, and will conclude at the close of business February 28, 2005. John Gerard Miller's suspension in any capacity began March 1, 2004, and will conclude at the close of business April 30, 2004. Miller's bar in a principal capacity will become effective May 1, 2004. Walter Scott Bruan's suspension in any capacity began March 1, 2004, and will conclude at the close of business March 31, 2004. Walter Scott Bruan's suspension in any principal capacity will begin April 1, 2004, and will conclude at the close of business June 30, 2004. (NASD Case #CAF040001)